

ORIGINAL

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

BETTY ANNE WATERS, as  
Administratrix of the Estate of  
KENNETH WATERS,  
Plaintiff,  
v.

TOWN OF AYER, NANCY TAYLOR-  
HARRIS, in her individual capacity,  
ARTHUR BOISSEAU, in his individual  
capacity, WILLIAM ADAMSON, in his  
individual capacity, and PHILIP L.  
CONNORS, in his individual capacity,  
Defendants.

Case No. 04 CV 10521 (GAO)(JGD)

**PLAINTIFF BETTY ANNE  
WATERS' LIST OF EXHIBITS  
IN FURTHERANCE OF HER  
MEMORANDA IN OPPOSITION  
TO DEFENDANTS' SUMMARY  
JUDGMENT MOTIONS**

True and correct copies of the following are filed herewith as exhibits:

**I. Deposition Transcript Excerpts**

- Ex. 1, John A. Baliunas (5/17/08)
- Ex. 2, Defendant Arthur Boisseau (8/25/06)
- Ex. 3, Defendant Arthur Boisseau (11/16/06)
- Ex. 4, Defendant Arthur Boisseau (6/13/07)
- Ex. 5, Francis P. Callahan (1/31/07)
- Ex. 6, Defendant Philip Connors (8/25/06)
- Ex. 7, Defendant Philip Connors (11/15/06)
- Ex. 8, Hon. Elizabeth Fahey (11/29/06)
- Ex. 9, John A. Ford (3/6/08)
- Ex. 10, Marilyn Goss (10/9/06)
- Ex. 11, Sgt. Alan Hunte (1/4/08)
- Ex. 12, Sgt. Patrick Keane (5/16/07)
- Ex. 13, Brenda Marsh (11/1/06)
- Ex. 14, Lt. Kenny Martin (3/27/07)
- Ex. 15, Stanley Randall (5/15/07)
- Ex. 16, Lou Reiter (3/25/08)

- Ex. 17, Bruce Taylor (1/30/07)
- Ex. 18, Defendant Nancy Taylor-Harris (11/30/06)
- Ex. 19, Defendant Nancy Taylor-Harris (5/18/07)
- Ex. 20, Plaintiff Betty Anne Waters (11/28/06)

## **II. Criminal Case Materials**

- Ex. 21, Indictments
- Ex. 22, *Comm v. Waters*, Excerpts of Probable Cause Hearing Transcript
- Ex. 23, *Comm v. Waters*, Excerpts of 1982 Grand Jury Transcript
- Ex. 24, *Comm v. Waters*, Excerpts of Criminal Trial Transcript
- Ex. 25, *Comm v. Waters*, Exhibit Lists
- Ex. 26, *Comm. v. Waters*, Sentencing Transcript
- Ex. 27, *Comm. v. Waters*, Commitment Warrants
- Ex. 28, *Comm. v. Waters*, Order Granting Unopposed Emergency Motion for New Trial
- Ex. 29, *Comm. v. Waters, Nolle Prosequi* (6/28/01)

## **III. APD Investigation Documents**

- Ex. 30, Complaint and Arrest Report
- Ex. 31, APD Brow Police Reports, in chronological order
- Ex. 32, Adamson Brow Police Reports
- Ex. 33, APD Brow Daily Logs, in chronological order
- Ex. 34, Search Warrant Application
- Ex. 35, Excerpts of Nancy Taylor APD personnel file
- Ex. 36, Taylor Handwritten Notes

## **IV. State Police Investigation Documents**

- Ex. 37, State Police Reports
- Ex. 38, State Police Crime Laboratory Report(7/28/80)
- Ex. 39, State Crime Laboratory Report (4/17/81)

## **V. Media regarding Taylor and the Brow case**

- Ex. 40, Cathy Johnston, "Brow Family Pleas for Tips to Police," "Ayer Murder Investigation," *Ayer Public Spirit*, June 5, 1980
- Ex. 41, Cathy Johnston, "[Brow Case] Reopened in Ayer," *Ayer Public Spirit*, February 1982
- Ex. 42, Cathy Johnston, "Within her Rights - Taylor," *Ayer Public Spirit*, Sept. 30, 1982
- Ex. 43, *Ayer Public Spirit*, Photograph of Nancy Taylor leading Kenneth Waters into the Ayer police station, Oct. 14, 1982.
- Ex. 44, Cathy Johnston, "Ayer policewoman's pay held back," *Ayer Public Spirit*, Oct. 28, 1982.

Ex. 45, Norm Hartford, "Nancy Harris - executive secretary to police chief," 1984

## **V. Policies**

Ex. 46, MPI Policies and Procedures - Informants

Ex. 47, MPI Policies and Procedures - Interviewing Witnesses

Ex. 48, Excerpts of MPI Policies and Procedures – Evidence – Handling, Preservation and Security

Ex. 49, Chain of Custody Documents

Ex. 50, APD Duties by Rank and Assignment

Ex. 51, Excerpts from Massachusetts Law Enforcement Handbook & Police Manual (1972)

## **VI. Additional Fingerprint Evidence**

Ex. 52, State Police Fingerprint File

Ex. 53, Adamson correspondence (7/16/80)

Ex. 54, Excerpts of Baliunas Original File (includes crime scene photographs)

Ex. 55, Affidavit of John Baliunas, with attachments

Ex. 56, Affidavit of Herbert F. DeSimone, Jr., with attachments

Ex. 57, Affidavit of Plaintiff's Expert Ron Smith (8/21/07)

## **VII. Additional Alibi Evidence**

Ex. 58, Autopsy Report (AG156-63) [MS - autopsy report (B245) is duplicate]

Ex. 59, Excerpt from Paul C. Giannelli & Edward J. Imwinkelreid, SCIENTIFIC EVIDENCE Vol. 2, sec. 19-8 at pp. 125-27 (Michie: 1999).

Ex. 60, Partial Transcript of May 22, 1980 Interview of Kenneth Waters

Ex. 61, APD Brow Correspondence from Adamson to Potvin (3/3/81)

Ex. 62, Correspondence from VA Hospital to Adamson dated Feb. 26, 1981 (enclosing Pina's time records)

Ex. 63, Ayer District Court Records

Ex. 64, Park Street Diner Time Cards

Ex. 65, Stipulation Regarding Waters' Weekly Pay Stub

Ex. 66, Subpoena for Time Cards;

Ex. 67, Giudetti Affidavit

Ex. 68, Lankford Affidavit

## **VIII. Additional Evidence Related to Brenda Marsh**

Ex. 69, Nancy Taylor report of 10/2/82

Ex. 70, Nancy Taylor report of 10/5/82

Ex. 71, Affidavit of Brenda Marsh (2001)

## **IX. Additional Evidence Related to Roseanna Perry**

- Ex. 72, Perry Affidavit & Statement to DeSimone
- Ex. 73, Memo to Andrews re Perry Interview
- Ex. 74, Unsigned Perry Draft Affidavit
- Ex. 75, Rose Perry Affidavit

## **X. Additional Monell Evidence**

- Ex. 76, Affidavit of Plaintiff's Police Practices Expert, Lou Reiter
- Ex. 77, *Local 346, Intern. Broth. of Police Officers v. Labor Relations Com'n & Town of Ayer*, 462 N.E.2d 96 (Mass. 1984)
- Ex. 78, Selected APD Reports and Daily Logs regarding Ties, in chronological order
- Ex. 79, Patricia Montminy and Lisa Berthiaume, "Ex-Officer Found innocent of morals charges," *Lowell Sun*
- Ex. 80, Patricia Montminy, "Testimony shows Ayer police department a divided camp," *Lowell Sun*
- Ex. 81, Patricia Montminy, "Chief Adamson responds to Ayer police dispute," *Lowell Sun*, Oct. 6, 1981
- Ex. 82, Patricia Montminy, "Selectmen enter fray on Ayer police morale," *Lowell Sun*, 10/7/81
- Ex. 83, 10/7/81 Adamson letter to Randall
- Ex. 84, "Ayer investigator charges efforts to silence him," "Press conference," "Downing urges public to demand an open meeting," *Ayer Public Spirit*, 10/15/81
- Ex. 85, Karen E. Guregian, "All charges against Ayer officer dropped by board of selectmen," *Lowell Sun*, Oct. 14, 1981
- Ex. 86, Kevin B. Blackstone, "Ayer patrolman accused of rape, his attorney charges a 'frameup'," *Boston Globe*, Oct. 29, 1981
- Ex. 87, Cathy Johnston, "Ties grand jury excused – but investigation continues," *Ayer Public Spirit*, July 15, 1982
- Ex. 88, *Comm. v. Maher, Nolle Prosequi* (4/3/03)
- Ex. 89, Affidavit of Attorney Carney & 1983 M.G. Assault Complaint

## **XI. Additional Evidence of Innocence**

- Ex. 90, Expert Report of Dr. Edward T. Blake, with attachments (7/19/07)
- Ex. 91, Expert Report of Dr. Sudhir Sinha, with attachments (5/10/07)
- Ex. 92, Middlesex County District Attorney's Office Press Release (3/14/01)
- Ex. 93, Jerry O'Brien, "After 18 Years, Sweet Freedom for Mass. Man," *Providence Journal-Bulletin* (3/14/01)

## **XII. Evidence Filed Under Seal**

Ex. 94, APD Report regarding Randall allegations  
Ex. 95, Acton arrest report  
Ex. 96, Excerpts of Marsh 2001 Grand Jury testimony  
Ex. 97, May 23, 2001 Correspondence from Calkins to Love  
Ex. 98, June 8, 2001 Bode Forensic DNA Case Report  
Ex. 99, District Attorney post-conviction documents & notes of ADA Sheila Calkins

## **XIII. Miscellaneous**

Ex. 100, *Comm v. Waters*, Excerpt of Motion for a New Trial Hearing Transcript (Bradley)

Dated: May 27, 2007  
New York, NY

Respectfully submitted,

/s/ Deborah L. Cornwall  
Barry C. Scheck (BS 4612)  
Deborah L. Cornwall (DC 2186)  
Monica R. Shah (MS 9846)  
COCHRAN NEUFELD & SCHECK, LLP  
99 Hudson Street, 8th Floor  
New York, NY 10013  
Tel. (212) 965-9081 / Fax (212) 965-9084

Robert N. Feldman  
BIRNBAUM & GODKIN, LLP  
280 Summer Street  
Boston, MA 02210-1108  
Tel. (617) 307-6130 / Fax (617) 307-6101

*Attorneys for Plaintiff Betty Anne Waters*

**CERTIFICATE OF SERVICE**

I, Monica R. Shah, hereby certify that the foregoing document was served via overnight delivery to counsel for the defendants on May 27, 2008 as indicated below:

Joseph L. Tehan, Jr.  
Gregg J. Corbo  
Jeffrey T. Blake  
Kopelman & Paige, PC  
101 Arch Street, 12<sup>th</sup> Floor  
Boston, MA 02110

/s/ Monica R. Shah \_\_\_\_\_  
Monica R. Shah